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National Mortgage Foreclosure Settlement Finalized by Court Order

Biden secured \$45 million for Delaware and fought for important new protections for America's military men and women

Wilmington – Delaware Attorney General Beau Biden announced today that a federal judge has approved the consent judgments that will implement the \$25 billion national mortgage settlement between Delaware, 48 other states and the District of Columbia, and the five largest mortgage-servicing banks.

The court orders, which were signed last week, require the banks to adhere to the financial terms of the settlement -- which include an estimated \$45 million for Delaware -- as well as new customer-service standards and protections for personnel serving in the United States military. The servicers participating in the settlement are Bank of America Corporation, JPMorgan Chase & Co., Wells Fargo & Company, Citigroup Inc., and Ally Financial Inc. (formerly GMAC).

“This settlement gives real relief to Delawareans and requires the banks to put meaningful customer-service standards into practice without affecting the additional actions we and other states are taking to hold banks accountable for their conduct that led to the housing crisis,” Biden said. “The settlement also has important new protections that that men and women serving in our nation’s military deserve.”

The consent judgments stem from a joint state-federal investigation that was initiated in October, 2010 amid widespread allegations of servicer misconduct, including “robo-signing” of foreclosure documents by banks. As detailed in a complaint filed last month, the investigation found that bank misconduct “resulted in the issuance of improper mortgages, premature and unauthorized foreclosures, violation of service members' and other homeowners' rights and protections, the use of false and deceptive affidavits and other documents, and the waste and abuse of taxpayer funds.”

The \$45 million from banks secured for Delaware by Biden’s office under the settlement will be paid to homeowners and the state in the following ways:

- More than \$32 million to current and former homeowners to reduce principal mortgage loans, extinguish second lien mortgage loans and waive deficiencies in short sales, and to provide refinancing to homeowners who are current on their mortgages but are otherwise unable to obtaining refinancing because they owe more than their homes are worth.
- Approximately \$2,000 each in payments to individual Delaware homeowners who have been foreclosed upon. Homeowners will be eligible to receive this money without having to release the banks from any liability for wrongful foreclosure.

- Approximately \$10 million to Biden's office to fund homeowner assistance programs, educational outreach, support Delaware's new mortgage mediation program, and fund ongoing and new civil and criminal investigations and cases related to the foreclosure crisis.

In addition to securing payments for Delaware homeowners, Biden's office led the negotiation effort to include new protections for military personnel in the settlement. These provisions include:

- Protections for servicemembers who are deployed to a new base, but are unable to sell a home near their former post because they owe more on the mortgage than the home is worth. Before the settlement, banks would not consider a servicemember's orders to move to a new base as a "hardship" that would allow them to be eligible for relief programs. The settlement terms now require the settling banks to make such personnel eligible for alternatives to foreclosure, such as loan modifications and short sales.
- An expansion of the federal Servicemembers Civil Relief Act (SCRA), a set of legal protections for military personnel whose origins date back to the Civil War. Career military personnel will benefit from key foreclosure protections that were previously only available primarily to reservists or members of the National Guard. Now, a servicemember stationed in a hostile fire zone and facing foreclosure by one of the settling banks will receive the benefit of the SCRA's protections regardless of whether the mortgage loan was obtained before or after the beginning of the homeowner's active duty service.
- Payments, negotiated by the Civil Rights Division of the United States Department of Justice, of more than \$115,000 each to any wrongfully foreclosed upon servicemember.

The mortgage servicing settlement does not affect separate actions Biden's office is taking to investigate the mortgage crisis, including its lawsuit filed this past October against MERS, the private mortgage registry that is at the heart of the foreclosure crisis. In that suit, Biden alleges that MERS has raised serious questions about who owns what in America and has sowed confusion among homeowners, investors, and other stakeholders in the mortgage finance system, seriously damaging the integrity of the land records that are central to Delaware's real property system, and leading to improper foreclosure practices.

In addition, Biden is continuing his intervention in the proposed \$8.5 billion settlement between the Bank of America and the Bank of New York Mellon to protect Delaware investors, as well as an ongoing joint investigation with New York Attorney General into mortgage securitization practices, and he remains committed to sharing resources with other states to investigate possible misconduct.

Delawareans can obtain the latest information about the mortgage servicing settlement online at www.attorneygeneral.delaware.gov, www.NationalMortgageSettlement.com, and www.HUD.gov. Delaware homeowners can also call the Attorney General's Mortgage Hotline at [800-220-5424](tel:800-220-5424).

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